



DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Docket No. FAA-2019-0111; Airspace Docket No. 19-ASO-23]

RIN 2120-AA66

Establishment of Restricted Area R-5306F; Cherry Point, NC

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This action establishes restricted area R-5306F at Marine Corps Air Station (MCAS) Cherry Point, NC. R-5306F extends from flight level (FL) 180 to FL 290. Restricted area R-5306F overlies the existing restricted area R-5306A, and the adjacent Core Military Operations Area (MOA). Due to altitude constraints, the existing restricted airspace structure around MCAS Cherry Point cannot fully support the training requirements for current legacy aircraft as well as 4th and 5th generation aircraft such as the F-35. In conjunction with R-5306A, restricted area R-5306F will allow for realistic training to enable pilots and aircrews to counter evolving threat nation warfare anti-aircraft capabilities.

DATES: Effective date 0910 UTC, December 2, 2021.

FOR FURTHER INFORMATION CONTACT: Sean Hook, Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591; telephone: (202) 267-8783.

SUPPLEMENTARY INFORMATION:

Authority for this rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes restricted area airspace at Cherry Point, NC, to enhance aviation safety and accommodate essential U.S. Marine Corps training activities.

History

The FAA published a notice of proposed rulemaking for Docket No. FAA-2019-0111 in the *Federal Register* (85 FR 16918; March 25, 2020), proposing to expand the restricted airspace at MCAS Cherry Point, NC, by establishing restricted area R-5306F, because the altitude constraints of the current airspace structure cannot fully support U.S. Marine Corps training and readiness requirements. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. No comments were received.

The Rule

This action amends 14 CFR part 73 by establishing restricted area R-5306F, Cherry Point, NC, to overlie the existing restricted area R-5306A, and the adjacent Core MOA. Restricted area R-5306F extends from FL 180 to FL 290. The time of designation is Monday through Friday, 0800 to 0000 hours, local time; other times by NOTAM.

In conjunction with R-5306A, R-5306F will provide the low-altitude to high-altitude restricted airspace needed to train in the variety of tactics as discussed above.

There are no current Air Traffic Service routes (i.e., jet routes or Q-routes) or preferential IFR routes that are impacted by the restricted area. R-5306F is joint-use special use airspace; meaning that the using agency will return the restricted area to the controlling agency (FAA, Washington ARTCC) on a real-time basis when not in use by the using agency. Supersonic flight will not be conducted in R-5306F.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action of establishing restricted area R-5306F at MCAS Cherry Point, NC, qualifies for categorical exclusion under the National Environmental Policy Act (42 U.S.C. 4321 et seq.) and its implementing regulations at 40 CFR part 1500, and in accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, paragraph 5-6.5f, which categorically excludes from further environmental impact review actions that increase the altitude of special use airspace. As such, this action is not expected to result in any potentially significant environmental impacts. In accordance with FAA Order 1050.1F, paragraph 5-2 regarding Extraordinary Circumstances, the FAA has reviewed this action for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis. The FAA has determined that no

extraordinary circumstances exist that warrant preparation of an environmental assessment or environmental impact study. The FAA's categorical exclusion declaration and decision for this action is separately documented in a categorical exclusion dated August 25, 2020.

List of Subjects in 14 CFR Part 73

Airspace, Prohibited areas, Restricted areas.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 73 as follows:

PART 73 - SPECIAL USE AIRSPACE

1. The authority citation for part 73 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389.

§ 73.53 North Carolina [Amended]

2. Section 73.53 is amended as follows:

* * * * *

R-5306F Cherry Point, NC [New]

Boundaries. Beginning at lat. 35°23'16"N., long. 76°34'39"W.;
to lat. 35°18'16"N., long. 76°16'39"W.;
to lat. 35°04'31"N., long. 76°04'29"W.;
to lat. 35°00'31"N., long. 76°00'59"W.;
to lat. 35°00'22"N., long. 76°00'51"W.;
thence southwest 3 NM from and parallel to the shoreline
to lat. 34°40'16"N., long. 76°24'45"W.;
to lat. 34°40'41"N., long. 76°25'08"W.;
to lat. 34°46'01"N., long. 76°29'59"W.;
to lat. 35°08'01"N., long. 76°51'19"W.;
to the point of beginning.

Designated altitudes. FL 180 to FL 290.

Time of designation. Monday through Friday, 0800 – 0000; other times by NOTAM.

Controlling agency. FAA, Washington ARTCC.

Using agency. USMC, Commanding Officer, U.S. Marine Corps Air Station Cherry Point, NC.

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Issued in Washington, DC, on August 9, 2021.

George Gonzalez,
Acting Manager, Rules and Regulations Group.

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